

REMARKS

The Assignee requests the Examiner consider the following remarks upon further review of the present application.

Please note, this application is a continuation-in-part application of parent U.S. Patent Application No. 10/234,231, entitled "Apparatus and Method for Detecting Photon Emissions From Transistors," filed on September 3, 2002.

In the Office action, five patentably distinct species have been identified in the present application. The species are listed below, each supplemented with an indication of which claims are identified with that species:

Species 1(a), identified with page 5, line 23, through page 6, line 10, of the specification, does not specifically correspond to any claim of the application.

Species 1(b), identified with page 6, lines 11-31 of the specification, does not specifically correspond to any claim of the application.

Species 1(c), identified with page 6, line 32, through page 7, line 24, of the specification, does not specifically correspond to any claim of the application.

Species 1(d), identified with page 7, line 25, through page 8, line 23, of the specification, corresponds to claims 1-25 of the application.

Species 1(e), identified with page 8, line 27, through page 11 line 10, of the specification, corresponds to claims 26-63 of the application.

Further, twelve separate subspecies have been identified in the present application. These subspecies are listed as follows, each supplemented with an indication of which claims are identified with that subspecies:

Subspecies 2(a), identified with Figs. 2, 3A and 5A, does not specifically correspond to any claim of the application.

Subspecies 2(b), identified with Figs. 2, 3B and 5A, does not specifically correspond to any claim of the application.

Subspecies 2(c), identified with Figs. 2, 3C and 5A, does not specifically correspond to any claim of the application.

Subspecies 2(d), identified with Figs. 2, 3A and 5B, does not specifically correspond to any claim of the application.

Subspecies 2(e), identified with Figs. 2, 3B and 5B, does not specifically correspond to any claim of the application.

Subspecies 2(f), identified with Figs. 2, 3C and 5B, does not specifically correspond to any claim of the application.

Subspecies 2(g), identified with Figs. 2, 3A and 5C, does not specifically correspond to any claim of the application.

Subspecies 2(h), identified with Figs. 2, 3B and 5C, does not specifically correspond to any claim of the application.

Subspecies 2(i), identified with Figs. 2, 3C and 5C, does not specifically correspond to any claim of the application.

Subspecies 2(j), identified with Figs. 8, 9 and 13, does not specifically correspond to any claim of the application.

Subspecies 2(k), identified with Figs. 8, 11 and 13, does not specifically correspond to any claim of the application.

Subspecies 2(l), identified with Fig. 17, corresponds to claims 1-63 of the application.

Given the above-noted association between the claims and the identified species and subspecies, claims 1-25, corresponding to Species 1(d) and Subspecies 2(l), are hereby elected for examination, with traverse.

The Assignee respectfully contends the two sets of claims (claims 1-25 and claims 26-63) do not present a serious burden on the Examiner, as the two sets of claims do not appear to represent separate classifications, separate statuses in the art, or separate fields of search under MPEP § 803 and MPEP § 808.02. Thus, the Assignee respectfully requests the Examiner reconsider and withdraw the Restriction Requirement.

Having fully responded to the above-referenced Office communication, the Assignee respectfully requests that examination on the merits proceed.

A one-month shortened period for reply was set in this case, making the response due on August 14, 2004, without a petition for extension to reply. As August 14, 2004, fell on a Saturday, this reply may be timely filed today, Monday, August 16, 2004, without extension.

Appl. No. 10/728,522
Amdt. dated August 16, 2004
Reply to Office action of July 14, 2004

No additional fees are believed to be required at this time. However, if any additional application processing fees are required, the Examiner is hereby authorized to charge deposit account number 04-1415.

Also, should the Examiner have any questions regarding the above, the Assignee requests that he contact the undersigned at the number listed below.

Dated: August 16, 2004

Respectfully submitted,



Gregory P. Durbin, Reg. No. 42,503
DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel.: (303) 629-3400
Fax: (303) 629-3450

USPTO Customer No. 20686